

CONTRACT PERIOD THROUGH MAY 31, 2004

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **HEALTH SELF MONITORING CENTERS**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **May 3, 2001**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

DD/mm
Attach

Copy to: Clerk of the Board
Andrew Guarneri, Human Resources
Monica Mendoza, Materials Management

SPECIFICATIONS FOR: HEALTH SELF-MONITORING CENTERS

1.0 INTENT:

This contract is to provide health self-monitoring centers in various locations across Maricopa County on behalf of the Maricopa County Human Resources Department. These centers will allow employees and the public to draw from a library of wellness and benefits brochures as well as to self-monitor the following key health factors: Blood Pressure, Heart Rate, Body Fat Rate, and Targeted Body Weight. This is a Service Revenue contract and County funds will not be expended.

2.0 DUTIES:

2.1 CONTRACT TYPE

This is a Service Revenue contract and County funds will not be expended. Payment for the rental of these Health Education Centers will be by various sponsors, and the Contractor will establish a pricing agreement between the sponsors and Contractor. The contract(s) between the sponsors and Contractor will have no bearing on the County, and the County is not responsible for any contractual issues between the sponsors and Contractor.

2.2 SPONSORS

The County will work with Contractor to identify sponsors. As more sponsors are located, more Health Education Centers will be placed at additional locations.

2.3 LOCATIONS

These Health Education Centers will be placed in various locations throughout Maricopa County, to be determined by the Maricopa County Human Resources department.

2.4 LITERATURE

Contractor shall place appropriate sponsor-provided health-related literature at each of the Health Education Centers. The name of each type of brochure to be placed in the Center, along with the quantity of each brochure, is to be forwarded to Maricopa County Human Resources upon the placement of a new Center. Updated information on brochure usage will be included in quarterly reports.

2.5 REPORTING

Quarterly reports will be submitted to Maricopa County Human Resources. The reports should be broken down by location and contain the following information, at a minimum:

- Usage for blood pressure test
- Usage for weight test
- Quantity of each brochure replenished since the last report

Quarterly reports can be provided either in a paper format or in an Excel format and sent via email.

2.6 MAINTENANCE AND REPAIR OF CENTERS

Contractor shall clean, dust, and disinfect the Health Education Centers quarterly. The update/cleaning schedule should be provided to Maricopa County Human Resources upon the placement of a new Center. At this time the Contractor also agrees to the restocking of up-to-date health brochures/flyers/record cards and to include this information in the quarterly report.

Contractor agrees to perform calibration, preventative, and remedial maintenance to the Centers, as required. Calls requesting repair may come from the general public or from Maricopa County Human Resources. Regardless of where the call originates, the Contractor agrees to make necessary repairs within 48 hours of receiving the call.

2.7 HEALTH EDUCATION CENTERS

The Health Education Centers will consist of the following:

- 2.7.1 Electronic Sit-Down Blood Pressure/Heart Rate Machine (meets NIH and AHA guidelines for upper arm measurement of blood pressure in sitting position)
- 2.7.2 Computerized weight/calorie analysis "VideoScale" with body fat and text messaging.
- 2.7.3 Four (4) Backlit Display Advertising Communication Panels on blood pressure and scale
- 2.7.4 Health Education Center Banner
- 2.7.5 36-Slot Literature Rack

3.0 **SPECIAL TERMS & CONDITIONS:**

3.1 CONTRACT LENGTH

This Contract shall be for a three (3) year period.

3.2 OPTION TO EXTEND

The County may, at their option and with the approval of the Contractor, extend the period of this Contract up to a maximum of two (2) one (1) year options. Contractor shall be notified in writing by the Materials Management Department of the County's intention to extend the contract period at least thirty (30) calendar days prior to the expiration of the original contract period.

3.3 INDEMNIFICATION AND INSURANCE

To the fullest extent permitted by law, the **Contractor** shall defend, indemnify, and hold harmless the **County**, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, omissions or mistakes relating to the performance of this Contract. **Contractor's** duty to defend, indemnify and hold harmless the **County**, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by any acts, errors, omissions or mistakes in the performance of this Contract including any person for whose acts, errors, omissions or mistakes, the **Contractor** may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

Abrogation of Arizona Revised Statutes Section 34-226:

In the event that A.R.S. § 34-226 shall be repealed or held unconstitutional or otherwise invalid by a court of competent jurisdiction, then to the fullest extent permitted by law, the **Contractor** shall defend, indemnify and hold harmless the **County**, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or resulting from **Contractor's** work or services. **Contractor's** duty to defend, indemnify and hold harmless, the **County**, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting therefrom, caused in whole or in part by any act or omission of the **Contractor**, anyone **Contractor** directly or indirectly employs or anyone for whose acts **Contractor** may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the **County**.

The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of the **County**.

3.4 INSURANCE REQUIREMENTS

Contractor, at **Contractor's** own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of B++6, or approved unlicensed companies in the State of Arizona with policies and forms satisfactory to the **County**.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the **County**, constitute a material breach of this Contract.

The **Contractor's** insurance shall be primary insurance as respects the **County**, and any insurance or self-insurance maintained by the **County** shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the **County**.

The insurance policies may provide coverage which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the **County** under such policies. The **Contractor** shall be solely responsible for the deductible and/or self-insured retention and the **County**, at its option, may require the **Contractor** to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The **County** reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The **County** shall not be obligated, however, to review such policies and/or endorsements or to advise **Contractor** of any deficiencies in such policies and endorsements, and such receipt shall not relieve **Contractor** from, or be deemed a waiver of the **County's** right to insist on strict fulfillment of **Contractor's** obligations under this Contract.

The insurance policies required by this Contract, except Workers' Compensation, shall name the **County**, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against the **County**, its agents, representatives, officers, directors, officials and employees for any claims arising out of **Contractor's** work or service.

3.4.1 Commercial General Liability. **Contractor** shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00 01 10 93 or any replacements thereof.

The policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form CG 20 10 11 85, and shall include coverage for **Contractor's** operations and products and completed operations.

If the **Contractor** subcontracts any part of the work, services or operations awarded to the **Contractor**, he shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and Contractor's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the **Contractor's** work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the **Contractor's** Commercial General Liability insurance.

3.4.2 Automobile Liability. **Contractor** shall maintain Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$1,000,000, each occurrence, with respect to **Contractor's** vehicles (whether owned, hired, non-owned), assigned to or used in the performance of this Contract.

3.4.3 Workers' Compensation. The **Contractor** shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of **Contractor's** employees engaged in the performance of the work or services, as well as Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, the **Contractor** will require the subcontractor to provide Workers' Compensation and Employer's Liability insurance to at least the same extent as required of the **Contractor**.

3.5 CERTIFICATES OF INSURANCE

Prior to commencing work or services under this Contract, **Contractor** shall furnish the **County** with Certificates of Insurance, or formal endorsements as required by the Contract, issued by **Contractor's** insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

In the event any insurance policy(ies) required by this contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the **Contractor's** work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the **County** fifteen (15) days prior to the expiration date.

3.6 CANCELLATION AND EXPIRATION NOTICE

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the **County**.

4.0 GENERAL TERMS AND CONDITIONS:

4.1 UNCONDITIONAL TERMINATION FOR CONVENIENCE

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

4.2 TERMINATION FOR DEFAULT

If the Contractor fails to meet deadlines, or fails to provide the agreed upon service/material altogether, a termination for default will be issued. The termination for default will be issued only after it is deemed by the County, that the Contractor has failed to remedy the problem after being forewarned.

4.3 TERMINATION BY THE COUNTY

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate this Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of, a substantial violation of any provision of this Contract, then the County may terminate this Contract. Prior to termination of this Contract, the County shall give the Contractor fifteen (15) calendar days written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

4.4 ORGANIZATION - EMPLOYMENT DISCLAIMER

The Contract is not intended to constitute, create, give rise to or otherwise recognize a joint venture contract or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in the Contract.

The parties agree that no persons supplied by the Contractor(s) in the performance of obligations under the contract are considered to be County employees, and that no rights of County civil service, retirement or personnel rules accrue to such persons. The Contractor(s) shall have total responsibility for all salaries, wages, bonuses, retirement withholdings, workmen's compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and shall save and hold the County harmless with respect thereto.

4.5 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S. § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the contract.

4.6 ADDITIONS/DELETIONS OF SERVICE

The County reserves the right to add and/or delete services to this Contract.

4.7 SUBCONTRACTING

The Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

4.8 AMENDMENTS

All amendments to this Contract must be in writing and signed by both parties.

4.9 CONFORMITY WITH THE LAW

This service shall be accomplished in conformity with the laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Maricopa, and the City of Phoenix.

4.10 CONTRACT COMPLIANCE MONITORING:

The Materials Management Department and the using Agency (ies) shall monitor the Contractor's compliance with, and performance under, the terms and conditions of the Contract. The Contractor shall make available for inspection and/or copying by the County all records and accounts relating to the work performed or the services provided in this Contract.

4.11 RETENTION OF RECORDS

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The Department, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of any and all said materials.

4.12 ADEQUACY OF RECORDS

If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that allowable services were provided. The Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

4.13 VALIDITY

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

4.14 CONTRACTOR'S RESPONSIBILITY

The Contractor will be responsible for any damages whatsoever to County property as applicable when such property is the responsibility or in the custody of the Contractor, his employees or subcontractors.

4.15 RIGHTS IN DATA

The County shall have the use of data and reports resulting from this Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

4.16 SECURITY AND PRIVACY

The Contractor agrees that none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. The County shall be notified immediately upon receipt of any such order of court, pertaining to production of such information.

The Contractor shall incorporate the foregoing provisions of this paragraph in all of its authorized subcontracts.

ATTACHMENT A

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